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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,207	05/29/2001	Donald Gale	6802-82887	6159
24628	7590	06/14/2006	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			JANVIER, JEAN D	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/867,207

Applicant(s)

GALE ET AL.

Examiner

Jean Janvier

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49-72 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 49-72 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/17/2004 has been entered and a Non-Final Office Action is herein being recorded.

DETAILED ACTION

Claim Status

All previous claims are canceled and claims 49-72 are currently pending in the Instant Application.

General Comments

In general the claims or at least the independent claims recite a method and system for allowing a remote terminal to access a server or a computer system over a communication link (web site) to select an option or request data and wherein, upon receiving the request, the server retrieves from its memory the information related to the request and presents it to the remote terminal.

Claim Objections

Art Unit: 3622

Claims 55-58, 64-68 and 69 are objected to because of the following informalities-

Concerning claims 57 and 67, in “providing utilities selection...”, it is unclear whether the remote location (management company) is selecting a utility option on behalf of a tenant since it is unlikely that a tenant will let a management company make such a selection on his behalf without a prior agreement.

Concerning claims 55-58 and 64-68, “as an option of the set of options” should apparently be --as one of the options--.

Concerning 69, “an application program adapted to execute the uploaded option by the server” should apparently be - -an application program, when executed by the server, causes the server to execute the uploaded option--.

Appropriate corrections are requested.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention is directed to non-statutory subject matter.

Art Unit: 3622

Concerning claims 49, 59 and 69 in “accessing a server from a remote location through a web site”, it appears that the server is associated or related to the web site. Furthermore, a set of options is downloaded from the web site (related to the server or web server) to the remote location, where one option is selected from the set of downloaded options and the selected option is uploaded from the remote location back to the server (related to the web site) and wherein the server executes the uploaded selected option. Here, the claim language is said to be confusing since one option from the set of options downloaded from the web site (of the server) is selected at the remote location and the remote location does nothing with the selected option, except perhaps browsing it, and sends it back to the server without updating it in any fashion. This is confusing because the server has this file or option stored in permanent memory or in a database. Simply browsing or printing the options or file, for example, based on the remote location user’s access rights, does not remote or delete the corresponding information or data related to the option or file.

Moreover, **the claims do not produce any useful, concrete and tangible result, especially since the step of executing the uploaded selected option does not actually achieve or produce any measurable output or tangible result.**

The claims are further rejected under 35 U.S.C. 101 because the claimed invention is not supported by either an asserted utility or a well-established utility for the reasons cited above.

Thus, the claims are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either an asserted utility or a well-established utility for the reasons set forth above, one skilled in the art clearly would not know how to use or implement the claimed invention.

All in all, the claims do not accomplish anything or produce any useful, concrete and tangible output or result.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 49, 58, 59, 67 and 69 (including their dependent claims) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Concerning claims 49, 59 and 69 in “accessing a server from a remote location through a web site”, it appears that the server is associated or related to the web site. Furthermore, a set of options is downloaded from the web site (related to the server or web server) to the remote location, where one option is selected from the set of downloaded options and the selected option is uploaded from the remote location back to the server (related to the web site) and wherein the server executes the uploaded selected option. Here, the claim language is said **to be confusing** since one option from the set of options downloaded from the web site (of the server) is selected at the remote location and the remote location does nothing with the selected option, except perhaps browsing it, and sends it back to the server without updating it in any fashion. This is confusing because the server has this file or option stored in permanent memory or in a database. Simply browsing or printing one of the options or file, for example, based on the remote location user’s access rights, does not remote or delete the corresponding information or data related to

Art Unit: 3622

the option or file. Hence, the server does not need to store the option after it was simply viewed or browsed by the user for the server already has the same option stored therein and that only a copy of the option was actually transmitted to the remote location or remote terminal. Here, there is no need to forward by the remote terminal the copy or the downloaded option back to the server for storage unless the content of the file or option was changed or updated at the remote location or terminal. Finally, the bodies of the claims never recite or refer back to “managing a real-estate unit...” as featured in the preambles.

Concerning claims 58 and 67, in “**providing a system selection** as an option of the set of options”, it unclear what the metes and bounds of the claim are or what subject matter the Applicant is seeking patent protection for.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

Art Unit: 3622

the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 49-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weatherly, US Patent 6,023,687.

As per claims 49-72, Weatherly discloses a computerized system and method for creating and managing **a lease agreement** including a lease control computer with means for analyzing and processing predetermined financial information regarding a potential tenant (T) and a potential landlord (L) on behalf of a lease control intermediary, means (24) for evaluating the information to determine the acceptability of the financial risk associated with potential tenant, creating a service product in the form of a guaranty (30) directed to **periodic lease payments from the lease control intermediary (management company) to the landlord (L) for a predetermined amount** defining a guaranty limit with the guaranty limit corresponding to a predetermined time period with the guaranty obligation becoming active upon failure of the potential lessee or tenant (T) to **pay periodic (monthly) lease payments to the lessor or landlord through the management company**. The system is adapted to provide a **lease agreement or contract (32) for execution by the landlord (L) and tenant (T) and the lease control intermediary, deposit periodic lease payments received either from the tenant (T) or made by the lease control intermediary according to the service product into an account held by the landlord (L), the payments having a management fee removed therefrom by the lease control intermediary for managing the lease (and/or property)**. See abstract; figs. 1-3.

Art Unit: 3622

The present system relates broadly to computerized systems and methods employed thereby for property transactions and, more particularly, to a method for creating and managing a lease agreement wherein a third party provides lease management and payment guaranties and the computerized system assesses risk management data (col. 1: 3-11).

Traditionally, leases of property, for example leases for houses or apartments, involve a lessor (landlord, owner....) and a lessee (tenant, renter, user....). In creating the lease relationship and lease agreement, the landlord will typically require background information, including various types of financial information such as employment information and current income, from the prospective tenant. Some landlords or property owners turn to property management company or third-party companies to manage their properties (daily activities of their properties), **including dealing with tenants, repairing the properties, collecting timely rents from the tenants, taking tenants to court when they do not pay and so forth as practiced in the industry (col. 1: 12-26).**

In general, Weatherly discloses a computerized system configured to process and store data (a plurality of options) in a database, related to a computer system or server, to enable the system to carry out tasks of a control intermediary (agent or third party or management company or financial institution computer or server) in the creation and management of a lease arrangement wherein the landlord is assured of rent payments being deposited in a landlord account in a timely manner or real-time. The present system may also guarantee that the landlord will receive a minimum amount of rent payments or a minimum monetary amount, and provide financial institutions with a product, which will generate fees for the financial institution for providing, inter alia, management services, as well as providing guarantees to landlords making

Art Unit: 3622

use of the service product (the management company charges a fee to a landlord for managing at least a real-estate unit on behalf of the landlord while guaranteeing that the landlord will receive at least a portion of the monthly rent when the tenant fails to pay the rent due based on the lease contract or agreement-col. 1: 45-55).

To those ends, a computerized system for creating and managing a lease agreement includes a pre-programmed lease control computer configured for processing information regarding a potential lessee received from a landlord, the pre-programmed lease control computer being remote from the landlord and operated and controlled by a lease control intermediary (management company), wherein the lease control computer having predetermined data regarding the potential lessee stored therein and being configured to determine the level of financial risk associated with said potential lessee according to predetermined criteria. The lease control computer is configured to create and produce, upon determination of an acceptable risk level, a physical manifestation of a service product in the form of a guaranty directed to periodic lease payments from said lease control intermediary to said lessor or landlord for a predetermined monetary amount defining a guaranty limit, wherein the guaranty limit corresponding to a predetermined time period with said guaranty obligation becoming active upon failure of said potential lessee or tenant to pay periodic (monthly) lease payments (col. 1: 57 to col. 2: 19).

It is further preferred that the computerized system for creating and managing a lease agreement further includes a landlord computer in communication with the lease control computer for data exchange regarding the potential lessee, wherein the landlord submits via a computer system a prospective tenant's data to the lease control computer for

Art Unit: 3622

determining acceptability. Preferably, the computerized system for creating and managing a lease agreement additionally includes a telecommunications link (network link) between the landlord computer and the lease control computer (here the landlord's computer, storing the prospective tenant's data, acts as a main computer or server for serving or allowing the lease control computer or remote terminal to download, over a communication link, tenant's data having a plurality of options from the landlord's or lessor's computer system to the remote terminal-Col. 2: 20-27).

The lease control computer is preferably configured to determine, **after processing the downloaded options or tenant's data**, whether the service product was accepted by the lessor or landlord, the lease agreement was accepted by the lessor, the lessee and the lease control intermediary (management company or financial institution), and, if so, to monitor periodic lease payment activity by the lessee (daily activity related to a rented real-estate unit) to determine whether periodic (monthly) lease payment has been made by a predetermined date (the lease control computer acting as the remote terminal or remote location processes the downloaded options or tenant's data to determine acceptability according to predetermined criteria-fig. 1). Further, the lease control computer may be configured, upon non-receipt of the periodic lease payment by the predetermined date, to add uncollected periodic lease payments to a total amount of outstanding debt for the account of the lessee, and compare the amount of outstanding debt to the predetermined guaranty limit to determine whether the amount of outstanding debt exceeds the predetermined guaranty limit, and if so, the lease control computer is configured to indicate that payment to the lessor an amount in accordance with the service product should be initiated and to initiate collection procedures to recover the amount of the outstanding debt from the

Art Unit: 3622

lessee, wherein collected rent payments and other payments are made electronically via direct deposit to the landlord's bank account (figs 1-3; col. 2: 28-58).

It is further preferred that the lease control computer is configured to determine whether the periodic lease payments should be directly deposited into a bank account of the lessor, and, if so, the lease control computer is configured to form an automatic periodic lease deposit account in a computer, and to automatically credit the automatic periodic (monthly) lease deposit account with an amount in accordance with the periodic lease payments less a management fee (col. 3: 3-9).

The lease control computer is also preferably configured for processing account information regarding the lessee or tenant, the lessor or landlord, the lease agreement and the service product; noting dates associated with actual payments and expected payments; designating accounts with payments past due for five days; generating and sending letters to the lessor and the lessee indicating that the periodic (monthly) lease payment was not received; and continuing to monitor the account of the tenant living in a specific rental unit having a particular address or identifier as featured in the tenant's data (options) downloaded from the landlord's computer over the communication link (col. 3: 10-17).

As per claims 49, 59, 69, 50, 51, 60, 61 and 71, although accessing by the user of the remote terminal the server or landlord's computer system storing the user's data (options) using an account or identification number (password) via a communication interface, such as a web site, could have been derived from the prior art disclosure, however, Weatherly does not

Art Unit: 3622

expressly disclose using by the remote location an identification number to access the server via a web site.

However, it common practice in the art to request or access by a user information stored on a central computer or file server or web server, over an Intranet, Extranet or Internet communication link, via an interface or a web site related to the server and wherein the user or remote user uses a password (identification or account number) and login name or username (User ID) to access the web site in an effort to maintain a level of security while providing access only to those who are authorized to access the stored data or options (no further disclosure is herein necessary).

“Official Notice”

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above disclosure into the system of Weatherly so as to connect the landlord's computer (server) storing, inter alia, prospective tenants' information over public network, such as an Extranet or the Internet, and to allow an authorized user or a third party from a management company to access the landlord's computer, via an input device or web site related to the computer using an identification or account number, to retrieve therefrom and process a tenant's data, thereby making the stored data, such as the prospective tenants' information, more accessible to management companies and other third parties involved on a “twenty-four/seven” (24/7) basis wherever they are located, while saving money on communication costs to link a third party's remote terminal to the landlord's computer to retrieve

Art Unit: 3622

data therefrom, and while providing a level of security by allowing only authorized users to access the computer or server via a web site or input device to request therefrom and process tenants' information to thereby determine their eligibility or acceptability to rent a property from the landlord.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USP 5,584,025 to Keithley discloses an information processing system for acquiring and displaying information relating to a specific industry or interest, the example herein being real estate and related goods and services. The system comprises a server, which has an input/output device for receiving and transmitting data, database files, and database storage. A media terminal for producing files, including digitized property descriptions, is provided. The media terminal has a digitizer for analog/digital signal converting, an i/o device for transmitting, and a data entry device. An end user terminal provides the ability to enter, transmit, receive and display data to and from the file server. An agent's terminal is equipped to enter and display data, as well as transmit information to and from the file server. The system is configured such that real estate information is received at the media terminal, edited, and, once approved, stored at the file server. The information is accessible from either the agent's or end user's terminals. The compilation of information in the databases includes demographic statistics, which are usable by Advertisers and various industry related entities.

Art Unit: 3622

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

06/08/06

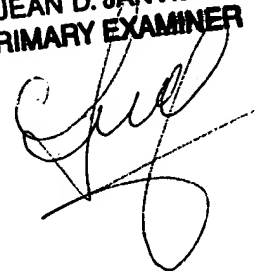
JDJ

Jean D. Janvier

Patent Examiner

Art Unit 3622

**JEAN D. JANVIER
PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to be 'JDJ', is written over a dashed line. The signature is stylized and cursive.